

CITY OF ROSENBERG REGULAR COUNCIL MEETING MINUTES

On this the 18th day of August, 2015, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Cynthia A. McConathy	Mayor
William Benton	Councilor at Large, Position 1
Amanda Barta	Councilor at Large, Position 2
Jimmie Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Lisa Wallingford	Councilor, District 3
Lynn Moses	Councilor, District 4

STAFF PRESENT

Robert Gracia	City Manager
Scott M. Tschirhart	City Attorney
Linda Cernosek	City Secretary
John Maresh	Assistant City Manager of Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Travis Tanner	Executive Director of Community Development
Lisa Olmeda	Human Resources Director
Dallis Warren	Police Chief
Wade Goates	Fire Chief
James Lewis	Director of Technology
Jenny Pavlovich	Communications Manager
Darren McCarthy	Parks and Recreation Director
Randall Malik	Economic Development Director
Rigo Calzoncin	Public Works Director
Jackie Jurasek	Animal Control Supervisor
Renee McAnally	Animal Control Officer
Kaye Supak	Executive Assistant

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER.

Mayor McConathy called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Dave Hodges, Grace Community Bible Church, Richmond, gave the invocation, and Nick Poncik of Troop 801 led the pledge of allegiance to the flag.

PRESENTATION OF CERTIFICATE OF RECOGNITION TO MR. NICK PONCIK OF TROOP 801 FOR HIS EAGLE SCOUT PROJECT BENEFITTING THE ROSENBERG ANIMAL SHELTER.

Jackie Jurasek, Animal Control Supervisor, presented a Certificate of Recognition to Mr. Nick Poncik of Troop 801 for His Eagle Scout Project Benefitting the Rosenberg Animal Shelter.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at

this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. **Review of Consent Agenda.**

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. **CONSIDERATION OF AND ACTION ON WORKSHOP MEETING MINUTES FOR JULY 28, 2015, AND REGULAR MEETING MINUTES FOR AUGUST 04, 2015.**

B. **CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2015-25, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY DELETING ALL OF SECTION 28-41 (A) AND (C), STOP SIGNS DESIGNATED, OF ARTICLE II, DIVISION 2 OF CHAPTER 28, STOP STREETS, AND SUBSTITUTING THEREFOR A NEW SECTION 28-41 (A) AND (C) OF ARTICLE II, DIVISION 2 OF CHAPTER 28 THEREOF; PROVIDING FOR A THREE-WAY STOP AT THE INTERSECTION OF CALLENDER STREET AND HOUSTON STREET; PROVIDING A PENALTY IN AN AMOUNT OF NOT LESS THAN \$1.00 OR MORE THAN \$200.00 FOR VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR SEVERABILITY.**

Executive Summary: City Council discussed the need for a 3-way stop at the intersection of Callender Street and Houston Street during the July 28, 2015 Workshop. As directed by City Council, staff has prepared Ordinance No. 2015-25 that would designate the intersection of Callender Street and Houston Street as a three-way stop. The intersection currently functions as a one-way stop with Houston Street having the stop condition and Callender Street being uncontrolled.

This item has been placed on the Agenda for consideration and action by City Council. Staff recommends approval of Ordinance No. 2015-25.

C. ***Item C was pulled from the Consent Agenda and moved to Item 2A on the Regular Agenda.***

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2027, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A DEDICATION OF UNOBSTRUCTED DRY PUBLIC UTILITY AND AERIAL EASEMENTS AND RELEASE OF EASEMENT FROM ROSENBERG BUSINESS PARK, LTD., CONTAINING A 3.811 ACRE TRACT OF LAND, AND A 0.196 ACRE TRACT OF LAND, MORE OR LESS, IN THE S. B. PENTECOST SURVEY, A-362 AND A-378, FOR THE PROVISION OF PUBLIC UTILITY EASEMENTS TO SERVE THE ROSENBERG BUSINESS PARK.

D. ***Item D was pulled from the Consent Agenda and moved to Item 2B on the Regular***

Agenda.

CONSIDERATION OF AND ACTION ON A SHORT FORM FINAL PLAT OF READING ROAD OFFICE PARK REPLAT NO. ONE, A TOTAL OF 0.3756 ACRES BEING A REPLAT OF LOT 13, READING ROAD OFFICE PARK IN THE JAMES LOWERY 1/3 LEAGUE, A-275, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, RECORDED UNDER FORT BEND COUNTY PLAT NO. 20110006; 2 LOTS, 1 BLOCK, 0 RESERVES.

E. CONSIDERATION OF AND ACTION ON QUARTERLY FINANCIAL REPORT AND QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2015.

Executive Summary: Overall, the financial status of the City is stable. Most funds have positive variances when compared to budget and prior year actual. The largest revenues of sales tax and property tax are positive when compared to budget and expenses are within the 75% benchmark for the third quarter of FY2015.

Staff will continue to monitor the revenues and expenses. At this time, no major changes need to be made to meet budget projections. Additionally, the Quarterly Investment Report is included in the agenda packet for review as required by the Public Funds Investment Act.

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the third quarter of Fiscal Year 2015.

Action: Councilor Benton made a motion, seconded by Councilor Euton, to approve Consent Agenda Items A, B, and E. The motion carried by a unanimous vote.

REGULAR AGENDA

2A. Previously Item C on Consent Agenda.

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2027, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A DEDICATION OF UNOBSTRUCTED DRY PUBLIC UTILITY AND AERIAL EASEMENTS AND RELEASE OF EASEMENT FROM ROSENBERG BUSINESS PARK, LTD., CONTAINING A 3.811 ACRE TRACT OF LAND, AND A 0.196 ACRE TRACT OF LAND, MORE OR LESS, IN THE S. B. PENTECOST SURVEY, A-362 AND A-378, FOR THE PROVISION OF PUBLIC UTILITY EASEMENTS TO SERVE THE ROSENBERG BUSINESS PARK.

Executive Summary: On February 17, 2015, the City of Rosenberg formally accepted two (2) public utility easements: one (1) generally located around the perimeter of the Rosenberg Business Park to allow for utilities to be provided within the Business Park, and a second easement specifically providing for power to the lift station to be located along Business Park Drive. CenterPoint Energy is requiring a separate easement for utilities to service the Rosenberg Business Park. The document serves to both dedicate an unobstructed dry public utility and aerial easement and release and abandon the previous easements accepted by the City. What were previously two (2) separate easements have been consolidated into a single document. Resolution No. R-2027 is necessary to allow for CenterPoint Energy to service the Rosenberg Business Park.

Staff recommends approval of Resolution No. R-2027, authorizing the City Manager to execute and accept a Dedication of Unobstructed Dry Public Utility and Aerial Easements and Release of Easement from Rosenberg Business Park, Ltd. If approved, the fully executed easement will be attached to the Resolution as Exhibit "A".

Key Discussion Points: Randall Malik, Director of Economic Development, explained that this easement was required by CenterPoint Energy to service the Rosenberg Business Park with utilities.

Action: Councilor Benton made a motion, seconded by Councilor Euton, to approve

Resolution No. R-2027, a Resolution authorizing the Mayor to execute, for and on behalf of the City, a Dedication of Unobstructed Dry Public Utility and Aerial Easements and Release of Easement from Rosenberg Business Park, Ltd., containing a 3.811 acre tract of land, and a 0.196 acre tract of land, more or less, in the S. B. Pentecost Survey, A-362 and A-378, for the provision of public utility easements to serve the Rosenberg Business Park. The motion carried by a unanimous vote.

2B. **Previously Item D on the Consent Agenda.**

CONSIDERATION OF AND ACTION ON A SHORT FORM FINAL PLAT OF READING ROAD OFFICE PARK REPLAT NO. ONE, A TOTAL OF 0.3756 ACRES BEING A REPLAT OF LOT 13, READING ROAD OFFICE PARK IN THE JAMES LOWERY 1/3 LEAGUE, A-275, CITY OF ROSENBERG, FORT BEND COUNTY, TEXAS, RECORDED UNDER FORT BEND COUNTY PLAT NO. 20110006; 2 LOTS, 1 BLOCK, 0 RESERVES.

Executive Summary: The Short Form Final Plat of Reading Road Office Park Replat No. One is a replat of Lot 13, Reading Road Office Park in the James Lowery 1/3 League, A-275, City of Rosenberg, Fort Bend County, Texas, recorded under Fort Bend County Plat No. 20110006. The Plat consists of 0.3756 acres.

The original Plat was recorded in 2011 and the developer now proposes to subdivide one of the existing lots into two (2). There is not an issue with the lot size (with it being commercial, not residential) or anything else in conflict with City ordinances. It should be noted that to have a three-foot (3') interior building line, a firewall will be required. However, this is not uncommon in the development; there are other lots with 3' building lines. A minimum ten-foot (10') building line is generally required (for commercial buildings) to not have a firewall per the International Building Code (IBC).

Also of note is that the development, per an Agreement established in 2010, required the installation of a traffic signal at Reading Road and Town Center Boulevard, which is partially funded by the City. The developer previously submitted a request to City Council to delay the signal installation until Phase II of the development. This request was considered and approved by City Council on July 21, 2015 (Resolution No. R-2009), therefore this contingency for Final Plat approval has been met.

The Planning Commission and staff recommend approval of the Short Form Final Plat of Reading Road Office Park Replat No. One.

Key Discussion Points: Travis Tanner, Executive Director of Community Development, explained that they are taking a lot that was platted in 2011 and are subdividing into two plats. Thomas Juarez, Richwest Investors, LLC, restated that, in his opinion, the installation of a traffic signal at Reading Road and Town Center Boulevard is unnecessary.

Action: Councilor Benton made a motion, seconded by Councilor Barta, to approve a Short Form Final Plat of Reading Road Office Park Replat No. One, a total of 0.3756 acres being a replat of Lot 13, Reading Road Office Park in the James Lowery 1/3 League, A-275, City of Rosenberg, Fort Bend County, Texas, recorded under Fort Bend County Plat No. 20110006; 2 lots, 1 block, 0 reserves.

The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor McConathy, Councilors Benton, Barta, Pena, Wallingford, and Moses. No: Councilor Euton.

2. **HOLD FIRST PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2015-2016 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.06 of the Rosenberg City Charter requires the Rosenberg City Council to hold a public hearing on the proposed Budget submitted; and, all interested persons shall be given an opportunity to be heard for or against any item or the amount of

any item contained in the proposed Budget.

Notice of this public hearing was published in the newspaper on Sunday, August 09, 2015. The second public hearing on the proposed Budget will be held on Tuesday, August 25, 2015.

This public hearing is held to provide the citizens the opportunity to present their comments regarding the proposed FY2015-2016 Budget.

Key Discussion Points:

- Joyce Vasut, Executive Director of Administrative Services, read the Executive Summary.
- Mayor McConathy opened the public hearing at 7:16:54 p.m.
- There were no speakers.
- Mayor McConathy closed the public hearing at 7:17:04 p.m.

3. **REVIEW AND DISCUSS FISCAL YEAR 2015-2016 BUDGET AS SUBMITTED BY THE CITY MANAGER ON JULY 21, 2015, PURSUANT TO ROSENBERG CITY CHARTER, AND TAKE ACTION AS NECESSARY TO DIRECT STAFF.**

Executive Summary: Section 9.08 of the Rosenberg City Charter requires that after the conclusion of the public hearing on the proposed Budget, the City Council may insert new items or may increase or decrease the items of said Budget, except items in proposed expenditures fixed by law. However, if City Council requests to increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

City staff will present the changes that were recommended by City Council during the August 08, 2015 Budget Workshop. At this time, City Council shall have an opportunity to discuss the proposed FY2015-2016 Budget, any changes thereto, and by a majority vote direct staff to make additional changes.

City Council may vote to direct staff to make changes to the Budget. A second public hearing and Budget discussion will be held on Tuesday, August 25, 2015, to finalize the Budget. The final FY2015-2016 Budget will be considered for adoption at the September 01, 2015 City Council Meeting.

Key Discussion Points: Joyce Vasut read the Executive Summary and further explained that, by lowering the Property Tax Rate to an even \$0.47, the budget was decreased by an approximate additional \$90,000; however, she wants to see the CAD appraisals before making those changes.

Action: Councilor Benton made a motion, seconded by Councilor Moses, to direct staff to include the changes requested during the August 08, 2015 Budget Workshop, and reflect these changes during the second public hearing and budget discussion to be held on Tuesday, August 25, 2015. The motion carried by a unanimous vote.

4. **CONSIDERATION OF AND ACTION ON A SECOND READING OF RESOLUTION NO. R-2024, A RESOLUTION PROVIDING FOR THE AMENDMENT OF THE CITY COUNCIL RULES OF PROCEDURE (NINTH EDITION), NAMELY ARTICLE V., ENTITLED AGENDA ORDER, BY REVISING THE ORDER OF ANNOUNCEMENTS BY MOVING ANNOUNCEMENTS TO APPEAR AFTER THE INVOCATION AND PLEDGE OF ALLEGIANCE ON REGULAR CITY COUNCIL MEETING AGENDAS.**

Executive Summary: As discussed at the July 28, 2015 City Council Workshop Meeting, a revision has been made to the City Council Rules of Procedure for placement of Announcements to appear after the Invocation and Pledge of Allegiance on Regular City Council Meeting agendas. Included in the agenda packet is a redlined version of the proposed revision. The first reading of Resolution No. R-2024 on August 04, 2015, was

approved unanimously by City Council.

Staff recommends approval of this second reading of Resolution No. R-2024 as presented. Should City Council approve the revision, attached to the Resolution as Exhibit "A", it will serve as the City Council Rules of Procedure, Ninth Revision.

Key Discussion Points: Scott M. Tschirhart, City Attorney, gave an overview of the item.

Action: Councilor Barta made a motion, seconded by Councilor Benton, to approve Resolution No. R-2024, a Resolution providing for the amendment of the City Council Rules of Procedure (Ninth Edition), namely Article V., entitled Agenda Order, by revising the order of Announcements by moving Announcements to appear after the Invocation and Pledge of Allegiance on Regular City Council Meeting Agendas. The motion carried by a unanimous vote.

5. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1965, A RESOLUTION AUTHORIZING THE CITY MANAGER TO COMBINE CITY-OWNED REAL PROPERTY AND TO ADD THE AFOREMENTIONED REAL PROPERTY TO COMMUNITY PARK, WITH SAID PROPERTY BEING DESCRIBED AS LOTS 4-7, BLOCK 2, THAT PORTION OF 3RD STREET (80-FOOT WIDE) BETWEEN BLOCK 2 AND BLOCK 3, NORTH OF AND ADJACENT TO AVENUE A, LOTS 1-9, BLOCK 3 THAT CERTAIN 20-FOOT WIDE ALLEY WITHIN BLOCK 3, THAT PORTION OF 4TH STREET (80-FOOT WIDE) BETWEEN BLOCK 3 AND 4, NORTH OF AND ADJACENT TO AVENUE A, LOTS 1-3, BLOCK 4, AND THAT CERTAIN 20-FOOT WIDE ALLEY WITHIN BLOCK 4, LOTS 11-20, BLOCK 11, AND THAT PORTION OF AVENUE A (80-FOOT WIDE) NORTH OF AND ADJACENT TO, LOT 11, BLOCK 11, CITY OF ROSENBERG TOWNSITE, ACCORDING TO A MAP OR PLAT THEREOF RECORDED IN VOLUME P, PAGE 146, DEED RECORDS, FORT BEND COUNTY, TEXAS, INCLUDING ANY ACCRETED PROPERTY BETWEEN SAID PROPERTY; AND, CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.**

Executive Summary: On May 22, 2014, the Parks and Recreation Board (Board) reviewed a proposal to add two (2) City-owned parcels to Community Park. After the motion passed by a unanimous vote of those present, staff presented the proposal to City Council at the September 30, 2014 Workshop Meeting. City Council advised staff to move forward, allowing time to perform due diligence regarding the right-of-way access, utility issues, and to request a title search for each parcel.

After reviewing the title searches with the City Engineer and Executive Director of Community Development, it has been confirmed that the parcels belong to the City and are able to be added to Community Park. These two (2) additional parcels will allow the Parks Department to potentially build a trail around the park, similar to other parks throughout the City and provide an additional off-street parking area for Community Park patrons.

Should City Council choose to dedicate the two tracts as a part of Community Park, the properties will not be able to be divested from the City in the future without putting them on a ballot for consideration during a public referendum.

Staff recommends approval of Resolution R-1965, a Resolution to grant the addition of two (2) adjacent City-owned lots to Community Park; and, authorizing the City Manager to execute any and all necessary documentation to facilitate same.

Key Discussion Points: Darren McCarthy, Parks and Recreation Director, read the Executive Summary, and explained that the City is currently already mowing and maintaining both parcels. Addition 1 could potentially be used for overflow parking as necessary, and Addition 2 could be used in the development of a walking trail.

Action: Councilor Euton made a motion, seconded by Councilor Wallingford, to approve Resolution No. R-1965, a Resolution authorizing the City Manager to combine City-owned real

property and to add the aforementioned real property to Community Park, with said property being described as Lots 4-7, Block 2, that portion of 3rd Street (80-foot wide) between Block 2 and Block 3, north of and adjacent to Avenue A, Lots 1-9, Block 3 that certain 20-foot wide alley within Block 3, that portion of 4th Street (80-foot wide) between Block 3 and 4, north of and adjacent to Avenue A, Lots 1-3, Block 4, and that certain 20-foot wide alley within Block 4, Lots 11-20, Block 11, and that portion of Avenue A (80-foot wide) north of and adjacent to, Lot 11, Block 11, City of Rosenberg Townsite, according to a map or plat thereof recorded in Volume P, Page 146, Deed Records, Fort Bend County, Texas, including any accreted property between said property; and, containing other provisions relating to the subject. The motion carried by a unanimous vote.

6. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1982, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A LETTER OF INTENT FOR PARTICIPATION IN A PROJECT REGARDING RAILROAD CROSSINGS AND DIRECTIONAL HORNS AND/OR QUIET ZONES, BY AND AMONG THE CITY OF ROSENBERG, THE CITY OF RICHMOND, AND FORT BEND COUNTY, TEXAS.**

Executive Summary: City Council previously discussed the Letter of Intent submitted by Fort Bend County Precinct 1 Commissioner Richard Morrison during the May 26, 2015 City Council Workshop. Commissioner Morrison was unable to attend the Workshop due to an unexpected emergency; therefore, City Council requested the item be placed onto the next Agenda for continued discussion.

During the Workshop discussion, staff did point out that signing the Letter of Intent would obligate the City to fund a portion of the consultant fees necessary to design and estimate construction costs for the directional horns and/or quiet zones. Included in the packet is a Wayside Horn Implementation Proposal provided by Commissioner Morrison's office. The proposal includes consultant fees, construction cost and on-going insurance/maintenance cost estimates. Commissioner Morrison subsequently provided the Engineering Cost sheet (included in the agenda packet) which identifies the total fee amount for the crossings along with the proposed cost allocation per entity. Should City Council choose to support the Project, sample correspondence to notify affected commercial property owners of a proposed special assessment levy has also been provided for review. The Commissioner is scheduled to present the Project proposal to City Council.

Resolution No. R-1982 does include a provision authorizing the expenditure of funds for said purpose in an amount not to exceed, which has not yet been determined. If Resolution No. R-1982 is approved to authorize the City Manager to execute the Letter of Intent, a dollar amount will need to be included, or the provision may be deleted from the Resolution. If approved, a subsequent budget adjustment will also be required.

City Council action on Resolution No. R-1982 will authorize the City Manager to execute the Letter of Intent, included as Exhibit "A", and provide staff with the direction necessary to proceed.

Key Discussion Points: John Maresh, Assistant City Manager of Public Services, read the Executive Summary and introduced Fort Bend County Precinct 1 Commissioner Richard Morrison, who gave a presentation regarding the wayside horns. After discussion, the general consensus of Council was in support of the Resolution, amended to include an amount not to exceed \$100,000, an added contingency on participation by the City of Richmond, Fort Bend County, and the Henderson-Wessendorff Foundation, and the deletion of references to the Letter of Intent (Section 3). Further, the consensus of Council was to exclude the West Fort Bend Management District from any contracts and future maintenance in Rosenberg.

Action: Mayor McConathy made a motion, seconded by Councilor Pena, to approve Resolution No. R-1982, a Resolution authorizing the City Manager to execute, for and on

behalf of the City signifying its intent for participation in a project regarding railroad crossings and directional horns and/or quiet zones, by and among the City of Rosenberg, the City of Richmond, Fort Bend County, Texas, and the Henderson-Wessendorff Foundation, in an amount not to exceed \$100,000. The motion carried by a unanimous vote.

7. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2018, A RESOLUTION AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A STANDARD UTILITY AGREEMENT, AND ANY REVISIONS THEREOF, BY AND BETWEEN THE CITY AND TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR WATER AND SANITARY SEWER UTILITY LINE RELOCATIONS NECESSITATED BY THE U.S. HWY 59/I-69 EXPANSION PROJECT.**

Executive Summary: The Texas Department of Transportation (TxDOT) U.S. Hwy 59/I-69 Expansion Project has created numerous conflicts with existing City water and sanitary sewer utility lines. The utility lines must be relocated in order to eliminate the conflicts. This Standard Utility Agreement (Agreement) specifically addresses the remaining segments of water and sanitary sewer lines that will have to be relocated between Reading Road and FM 762. City Council previously approved similar Agreements on September 02, 2014 (Resolution Nos. R-1852 and R-1853) for utility relocations located between Spur 10 and Reading Road. Please note that Resolution Nos. R-1852 and R-1853 have been included without Exhibit "A" due to their size. Should City Council wish to review either Resolution Nos. R-1852 or R-1853 in their entirety, both are available in the City Secretary's office.

Due to the short timeline, TxDOT did contract with an outside engineering firm to prepare the construction plans on behalf of the City. The plans were fully reviewed and approved by City staff. TxDOT is also including the water and sanitary sewer utility line relocation work as a part of the TxDOT road construction contract. By doing so, the TxDOT Contractor assumes full responsibility for scheduling the work and the City does not have to assume the risk of monetary penalties if a delay were to occur in meeting the relocation deadline. This Agreement, attached as Exhibit "A" to Resolution No. R-2018, specifies that TxDOT will fully fund/reimburse the City for all eligible costs associated with the relocation, including engineering and construction costs. The Agreement will also provide reimbursement to the City for expenses associated with both staff and consultant time spent for tasks such as plan reviews, construction inspections and attending TxDOT meetings directly associated with the Project. Staff would also note that said Agreement and attached exhibits may require minor revisions or clarifications during the TxDOT review and approval process.

Staff recommends approval of Resolution No. R-2018 as presented.

Key Discussion Points: John Maresh read the Executive Summary. The project is estimated to take about three and a half years.

Action: Councilor Barta made a motion, seconded by Councilor Euton, to approve Resolution No. R-2018, a Resolution authorizing the City Manager and/or Mayor to execute, for and on behalf of the City, a Standard Utility Agreement, and any revisions thereof, by and between the City and Texas Department of Transportation (TxDOT) for water and sanitary sewer utility line relocations necessitated by the U.S. Hwy 59/I-69 Expansion Project. The motion carried by a unanimous vote.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-2025, A RESOLUTION AWARDED BID NO. 2015-11 FOR LIME SUBGRADE STABILIZATION, WAIVING INFORMALITIES IN BIDDING; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: The list of streets for the proposed FY2015 Street Overlay and Reconstruction Project was presented to City Council during the March 24, 2015 Workshop, and was approved on April 07, 2015. The Priority Project List is included in the supporting documentation for this item. The cost estimate for the recommended streets included is

approximately \$848,477. The FY2015 Budget includes \$800,000.00, which should fully fund the FY2015 project, provided staff is able to control the actual material quantities used compared to the estimates provided. During the Workshop, staff recommended the use of a contractor to transport and place the asphalt in lieu of submitting a request to Fort Bend County Road and Bridge. The contractor would be selected utilizing the current Fort Bend County bids. Due to the County's workload, this would allow the Project to be completed much sooner.

Fort Bend County does not have a bid for the lime subgrade stabilization labor and materials that are necessary for the Rosenberg streets requiring reconstruction. Therefore, staff prepared specifications and sealed bids were received on Wednesday, July 29, 2015, for Bid No. 2015-11 for Lime Subgrade Stabilization. A total of two (2) bids were received and tabulated as indicated on the bid summary form included in the agenda packet.

Angel Brothers Enterprises, Ltd. (Angel Brothers), submitted a base bid in the amount of \$415,265.00, which is \$17,677.43 higher than the base bid amount of \$397,587.57 submitted by Gonzalez Construction Enterprise, Inc. Staff recommends awarding Bid No. 2015-11 to the higher bidder Angel Brothers for the following reasons:

1. Century Asphalt currently has the Fort Bend County Contract for asphalt material and the labor to lay down the asphalt. Angel Brothers is a subsidiary of Century Asphalt. By awarding the Bid No. 2015-11 to Angel Brothers, the City would have contractors from the same parent company performing all phases of the work. This will minimize conflicts that are typically encountered when there are multiple contractors working on the same project. In this scenario, Angel Brothers would be performing the lime subgrade stabilization and would also overlay the street with asphalt provided by Century Asphalt under Fort Bend County's Contract.
2. The sealed bid submitted by Gonzalez Construction Enterprise, Inc., included an unusually high unit price for the Performance and Payment Bond in a lump sum amount of \$152,500.00. Whereas, the sealed bid submitted by Angel Brothers included a unit price in the lump sum amount of \$7,500.00 for the Performance and Payment Bond, which is in-line with the costs submitted by other contractors on similar type projects. Staff does not recommend acceptance of a bid with a pay item that includes an unusually large disparity.

During the bid review process, it was also noted that the "Description of Unit" for Bid Item Nos. 1 and 2 were inadvertently swapped on the bid form. However, both of the bidding contractors based the bid prices on the appropriate unit cost, not the description. Therefore, informalities in bidding will need to be waived in order to correct the descriptions and accept the bid.

Staff recommends Bid No. 2015-11 be awarded to Angel Brothers Enterprises, Ltd., for the unit price bid item amounts for an initial term of one (1) year, with the option to automatically renew up to three (3) additional one (1) year terms based on these unit prices. Should the bid be awarded as recommended, the Angel Brothers Enterprises, Ltd., proposal will be attached and serve as Exhibit "A" to Resolution No. R-2025.

In summary, staff recommends waiving informalities in bidding, and approval of Resolution No. R-2025 which will award Bid No. 2015-11 and provide authorization for the Mayor and/or City Manager to negotiate and execute all appropriate documents and/or agreements regarding same.

Key Discussion Points: Rigo Calzoncin, Public Works Director, read the Executive Summary. Scott Tschirhart explained that an unusually high price for a bid bond is a red flag, generally

because of claims.

Action: Councilor Pena made a motion, seconded by Councilor Barta, to approve Resolution No. R-2025, a Resolution awarding Bid No. 2015-11 for Lime Subgrade Stabilization to Angel Brothers Enterprises, Ltd., in the amount of \$415,265.00, waiving informalities in bidding; and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote.

9. **HOLD EXECUTIVE SESSION TO CONSULT WITH CITY ATTORNEY ON PENDING OR CONTEMPLATED LITIGATION, NAMELY TEXAS DEPARTMENT OF TRANSPORTATION V. ROSENBERG CONDEMNATION PROCEEDINGS, PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE; TO DELIBERATE THE POTENTIAL PURCHASE, EXCHANGE, LEASE, OR VALUE OF REAL PROPERTY PURSUANT TO SECTION 551.072 OF THE TEXAS GOVERNMENT CODE; TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, AND EVALUATION OF THE CITY MANAGER PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE; AND, TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL, OR TO HEAR A COMPLAINT OR CHARGE AGAINST AN OFFICER OR EMPLOYEE AS IT RELATES TO THE COMMUNICATIONS DIRECTOR PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

Action: Councilor Euton made a motion, seconded by Councilor Wallingford, to adjourn to Executive Session. The motion carried by a unanimous vote.

An Executive Session was held to consult with City Attorney on pending or contemplated litigation, namely Texas Department of Transportation v. Rosenberg condemnation proceedings, pursuant to Section 551.071 of the Texas Government Code; to deliberate the potential purchase, exchange, lease, or value of real property pursuant to Section 551.072 of the Texas Government Code; to deliberate the appointment, employment, and evaluation of the City Manager pursuant to Section 551.074 of the Texas Government Code; and, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal, or to hear a complaint or charge against an officer or employee as it relates to the Communications Director pursuant to Section 551.074 of the Texas Government Code.

10. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor McConathy adjourned the Executive Session and reconvened into Regular Session at 10:02 p.m.

Action: Mayor McConathy made a motion, seconded by Councilor Pena, to give the City Manager direction to immediately terminate the current Communications Director.

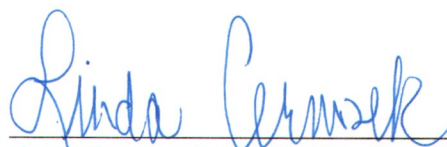
The motion carried by a vote of 6 to 1 as follows: Yeses: Mayor McConathy, Councilors Benton, Barta, Pena, Euton, and Moses. No: Councilor Wallingford.

11. **ANNOUNCEMENTS.**

- There were no announcements.

12. **ADJOURNMENT.**

There being no further business, Mayor McConathy adjourned the meeting at 10:03 p.m.



Linda Cernosek, TRMC, City Secretary